

EXHIBIT 2



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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO 90/008327

PATENT NO. 6,229,366

ART UNI 3993

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified ex parte reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the ex parte reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Case No. 04-1371-JJF
DEFT Exhibit No. DX 602
Date Entered _____
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,327	11/09/2006	6229366	10414-25	7730

7590 01/22/2007

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 01/22/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Order Granting / Denying Request For Ex Parte Reexamination	Control No.	Patent Under Reexamination	
	90/008,327	6229366	
	Examiner	Art Unit	
	Margaret Rubin	3992	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The request for *ex parte* reexamination filed 09 November 2006 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) ☐ PTO-892, b) ☒ PTO/SB/08, c) ☐ Other: _____

1. ☒ The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. ☐ The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within ONE MONTH from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) ☐ by Treasury check or,
b) ☐ by credit to Deposit Account No. _____, or
c) ☐ by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).

Margaret Rubin
Primary Examiner
Art Unit: 3992

cc:Requester (if third party requester)

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DECISION GRANTING EX PARTE REEXAMINATION

Information Submissions

Information Submissions in *Ex Parte* Proceedings are bound by 37 CFR § 1.555 which incorporates 37 CFR § 1.98(a). It appears as if Requester made typographical errors in transcribing the title of citation CB and the date of citation CC. Further, page numbers were not supplied for citations CB, CC and CD. Corrections have been made by the Office on PTO form 1449.

Summary

Substantial new questions of patentability affecting claims 1, 2, 8, 9, 10, 14, 16 and 18 of United States Patent No. 6,229,366 (hereafter "the base patent") are raised by the following references:

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- 1.) SGS-Thomson "TEA2262, Switch Mode Power Supply Controller"
pp. 1-9 (April 1996) (hereafter, "TEA2262");
- 2.) U.S. Patent No. 4,638,417 to Martin;
- 3.) "Programmed Pulsewidth Modulated Waveforms for
Electromagnetic Interference Mitigation in DC-DC Converters";
IEEE Transactions on Power Electronics, Vol. 8, No.4 (October
1993) by A.C. Wang and S.R. Sanders, pp. 596-605 (hereafter
"Wang");
- 4.) Unitrode UCC 3800/1/2/3/4/5 biCMOS Current Mode Control
IC's, Bill Andreyckak, pp. 9-344 - 9-361 (1994) ("U-133") and
- 5.) "Off-Line Power Integrated Circuit for International Rated
60-watt Power Supplies" by Richard Keller, Applied Power
Electronics Conference and Exposition, February 1992 (pp. 505-
512) (hereafter, "Keller").

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Issues Raised by Requester

Although the merits of the rejections suggested in the request are not decided herein, it is noted that the Requester proposes that the references supplied raise substantial new questions of patentability when viewed in the following manner:

- 1.) "Claims 1, 2, 8, 9, 10, 14, 16 and 18 are rejected under 35 U.S.C. §§102(a)(b) as anticipated by TEA2262";
- 2.) "Claims 1, 2, 8, 9, 10, 16 and 18 are rejected under 35 U.S.C. §§102(a)(b) as anticipated by Keller";
- 3.) "Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of Martin or, alternatively, in view of Wang"; and
- 4.) "Claims 1, 2, 8, 9, 10, 16, and 18 are rejected under 35 U.S.C. §§102(a)(b) as being anticipated U-133."

Background

The base patent issued from United States Patent Application No. 09/573,081 (hereafter "the base application").

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The base application was allowed in the first Office action. It is noted that a statement regarding allowable subject matter mailed December 13, 2000 cited "a pulse width modulation circuit comprising a switching transistor wherein the switching transistor can be driven into a non-conducting state by a maximum duty cycle signal, a drive circuit, or a soft start circuit." It is noted that there are two independent claims within the base patent: claims 1 and 9. Neither of them include recitation of a switching transistor. In addition, claim 9 does not require a pulse width modulation circuit, or a maximum duty cycle signal. Lastly, claim 1, for instance, requires that a switch allows a signal to be transmitted between first or second terminals in accordance with a drive signal. The drive signal is provided "according to said maximum duty cycle signal" and a signal from the soft start circuit instructs the drive circuit "to disable said drive signal during at least a portion of said on-state of said maximum duty cycle." Assuming that the switch recited in claim 1 correlates with the switching transistor of the before mentioned reasons for allowance, the reasons for allowance describes different causal relationships between recited elements. In a similar fashion, the causal relationship between recited elements of claim 9 differs from the description included in the reasons for allowance.

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In summary, the prosecution history does not provide a clear record of the reasons the base patent was allowed.

TEA 2262

It is agreed that TEA 2262 raises an SNQ for claims 1 and 9. More particularly, Requester has provided plausible item-matching for a number of limitations of claims 1 and 9 on pages 8-12 and 15-18, respectively, of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative. By raising an SNQ with regard to independent claims 1 and 9, an SNQ is also raised for the dependent claims 2, 8, 10, 14, 16 and 18 which come freighted with the limitations of the claims from which they stem.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

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Keller

It is agreed that Keller raises an SNQ for claims 1 and 9. More particularly, Requester has provided plausible item-matching for a number of limitations of claims 1 and 9 on pages 24-25 and 29-31, respectively, of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative. By raising an SNQ with regard to independent claims 1 and 9, an SNQ is also raised for the dependent claims 2, 8, 10, 16 and 18 which come freighted with the limitations of the claims from which they stem.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

Martin and Wang

It is agreed that Martin and Wang raise an SNQ for claim 14. More particularly, Requester has provided plausible item-

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matching for a number of limitations of claim 14 on pages 32-35, respectively, of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

U-133

It is agreed that U-133 raises an SNQ for claims 1 and 9. More particularly, Requester has provided plausible item-matching for a number of limitations of claims 1 and 9 on pages 41-42 and 44-45, respectively, of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative. By raising an SNQ with regard to independent claims 1 and 9, an SNQ is also raised for the dependent claims 2, 8, 10, 16, and 18

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which come freighted with the limitations of the claims from which they stem.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

Conclusion

Since Requester did not request reexamination of claims 3-7, 11-13, 15 and 17 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims, these claims will not be reexamined unless at the discretion of the Office.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in

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ex parte reexamination proceedings are provided for in 37

CFR 1.550(c).

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No 6,229,366 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Please mail any communications to:

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Commissioner for Patents
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Alexandria VA 22313-1450

Please FAX any communications to:
(571) 273-9900
Central Reexamination Unit

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Please hand-deliver any communications to:



Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.



Margaret Rubin
Primary Examiner
Central Reexamination Unit 3992
(571) 272-1756

conferees:

71328 U.S. PTO

Please type a plus sign (+) in this box ☐ ☒

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PTO/SB/08A (10-96)

71328 U.S. PTO

92008327

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

Complete if Known 11/09/06

Patent Number	6,229,366
Issue Date	May 8, 2001
First Named Inventor	Balu Balakrishnan
Group Art Unit	3992
Examiner Name	Rubin
Attorney Docket Number	

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Patent of Cited Documents MM-DD-YYYY
		Number	Kind Code ²		
MR	AA	4,638,417		Hubert C. Martin, Jr.	01/20/1987
	AB				

FOREIGN PATENT DOCUMENTS

Examiner Initials	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publications of Cited Documents MM-DD-YYYY	T ⁶
		Office ³	Number ⁴	Kind Code ⁵			
	BA						

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS				
Examiner Initials ¹	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²	
MR	CA	SGS-Thompson datasheet entitled "TEA2262, Switch Mode Power supply Controller," pp. 1-9 (April 1996) ("TEA2262").		
MR	CB	R. Keller, "Power Integrations," Off-Line Power Integrated Circuit for International Rated 60-Watt Power Supplies," (February 23-27, 1992) Keller pp 505 - 512		
MR	CC	"Programmed Pulsewidth Modulated Waveforms For Electromagnetic Interferences Mitigation In DC-DC Converters", IEEE Transactions on Power Electronics, Vol. 8, No. 4 (October 1993) A.C. Wang and S.R. Sanders ("Wang"). pp 596 - 605 31993		
MR	CD	Unitrode UCC 3800/1/2/3/4/5 biCMOS Current Mode Control IC's (1994) ("U-133") pp 9-344 - 1993		9

Bill Andreyak

9-361

Examiner Signature	M Rubin	Date Considered	11/3/07
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AMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1. See attached Kinds of U.S. Patent Documents. 2. Enter Office that issued the document, by the two-letter code (WIPO Standard ST.). 3. For Japanese patent documents, indicate the year of the reign of the Emperor must precede the serial number of the patent documents. 4. Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. 5. Applicant is to place a check mark here if English language Translation is attached.

6. Ten Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.